

TUBA CITY (GREY HILLS)	:	Order Docketing and Dismissing
HIGH SCHOOL BOARD, INC. ,	:	Appeal
Appellant	:	
	:	
v.	:	
	:	Docket No. IBIA 90-30-A
ASSISTANT NAVAJO AREA DIRECTOR -	:	
ADMINISTRATION, BUREAU OF	:	
INDIAN AFFAIRS,	:	
Appellee	:	December 20, 1990

On November 28, 1989, the Board of Indian Appeals (Board) received a notice of appeal from the Tuba City (Grey Hills) High School Board (appellant). Appellant stated that it sought review of an October 12, 1989, decision of the Assistant Navajo Area Director - Administration, Bureau of Indian Affairs (appellee), concerning a 50 percent reduction in its fiscal year 1990 budget under Grant #GTN33900290.

On January 16, 1990, the Board received a motion to dismiss from appellee. As grounds for dismissal, appellee stated that neither he nor anyone working for him made the decision allegedly appealed from, he had no authority to make such a decision, and the funds awarded to appellant were subject to Congressional budgetary restrictions. By order dated January 17, 1990, the Board gave appellant an opportunity to show cause why appellee's motion to dismiss should not be granted.

By response received on January 22, 1990, appellant stated that it had no objection to the substitution of the Assistant Secretary - Indian Affairs as appellee in this matter. Appellant stated at page 1 of its response:

Appellant has now been informed that the Assistant Secretary/Indian Affairs has conferred authority on the Director, Office of Construction Management over the allocation of Bureau of Indian Affairs monies. While the Director of the Office of Construction Management reports to the Assistant Secretary for Policy, Budget, and Administration, the monies which are the subject of this appeal belong to the Bureau of Indian Affairs. Within the Bureau of Indian Affairs, we are advised that the designated Grants Officer for the Tuba City High School grant is Western Navajo Agency Superintendent for Education Robert Jenkins. We are advised that Jenkins carries out the decisions authorized by the Assistant Secretary/Indian Affairs and made by the Director of the Office of Construction Management.

Therefore, appellant stated that the appellees should be the Assistant Secretary, the Western Navajo Agency Superintendent for Education, and the Director of the Office of Construction Management.

Appellant has named four possible appellees in this case. It now concedes that the Assistant Navajo Area Director - Administration is not the proper appellee. Decisions of the Assistant Secretary - Indian Affairs are final for the Department unless otherwise provided in program regulations or in the decision on appeal. See 25 CFR 2.20(c). The Board has jurisdiction to review decisions made by Bureau of Indian Affairs officials under 25 CFR Chapter I, 43 CFR 4.1; it does not have jurisdiction to review a decision made by any other Department of the Interior official. Therefore, it lacks jurisdiction to review decisions rendered by the Director of the Office of Construction Management. Finally, appellant admits that the role of the Western Navajo Agency Superintendent for Education is merely to carry out decisions made by the Assistant Secretary and/or the Director of the Office of Construction Management. The Board does not have jurisdiction over decisions of BIA education officials. See 25 CFR 2.4(e). Thus, the actual decision is that of an official over which the Board lacks jurisdiction.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, this appeal is docketed and dismissed for lack of jurisdiction.

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Kathryn A. Lynn  
Chief Administrative Judge

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Anita Vogt  
Administrative Judge